

REVISED MINUTES

**PLANNING COMMISSION MINUTES OF 03/28/05**

**2002-0070 - City of Sunnyvale** [Applicant/Owner] - Study Issue on In-lieu fee for the undergrounding of utilities: This study evaluates and asks for direction on a series of alternatives intended to enhance the implementation of the undergrounding of overhead utilities throughout the City. Alternatives will include consideration of an in-lieu fee, deferral agreements, development fees and the creation of assessment districts. AM

**Andrew Miner**, Associate Planner, presented the staff report. This is a very complex issue. This report is not meant to be a conclusive study but to study options that would result in direction from City Council about which funding mechanism and program would provide the most desired results. Roughly 55% of the cities utilities are underground, of the remaining, 15% are found in front overhead, 30% are in the rear overhead. Staff looked at many options listed in the report and felt that we should continue to exempt single-family home remodels as well as properties with overhead utilities along the rear since the visual impact of those are less significant. The main option staff recommends is using PG & E Rule 20 funds for improvements along arterials and major collectors and other eligible areas. Also, staff recommends in-lieu fees or deferral agreements for larger projects if it's infeasible to underground the utilities at that time or for properties on an arterial or a major collector that is programmed to be undergrounded. There are other mechanisms discussed in the report but staff did not recommend these options.

**Chair Moylan** had previously e-mailed questions to Mr. Miner. He addressed these here:

- Questioned about motivational priorities, case specific situations that merit having undergrounding where there are trees or other objects that interfere with utility poles and lines.
- What are the definitions of arterials and major collectors?

Staff replied that according to the State the definitions are as follows:

Arterial – Major street carrying the traffic of local and collector streets to and from freeways and other major streets with controlled intersections and generally providing direct access to properties.

Collector – Street for traffic moving between arterials and local streets generally providing direct access to properties.

These are the definitions to which PG&E Rule 20 refers to.

- Why is Homestead not on the list as one of the attachments?

Staff explained that the list of projects was created in 1985. Staff is recommending that we have a new work program for Rule 20 projects and staff agrees Homestead should be included in that. Homestead was dropped in the 1985 priority list due to funding issues.

**Comm. Simons** asked if utility assessment districts can be established by a specific neighborhood if requested. Staff and Rebecca Moon, Deputy City Attorney, responded that there are legal obligations to setting up utility districts and they would have to be defined if that option was chosen by the Council.

**Comm. Simons** also stated his concern that the report didn't discuss having utilities placed underground at the same time as other projects such as fiber optics being placed in the City right-of-way.

**Comm. Sulser** questioned about proposed priorities for undergrounding utilities and how Sunnyvale seems to be addressing "overhead in back" and asked what other cities do in prioritizing? Staff replied that other cities have varied plans written in their ordinances but a lot of the language is common.

**Comm. Fussell** commented that in the report reason for undergrounding utilities was based on safety as well aesthetics (in 1967). If it is an issue of safety how can we say that overhead in front is more of a safety issue than overhead in the back.

**Chair Moylan**, stated the recommendation to Council should express why utility undergrounding is important even though it is really expensive. He suggested, in priority order, the reasons to underground utilities are: 1) hazards or inconvenience to people; 2) hazards to trees; and 3) aesthetics. The five prioritization categories listed in the report would be the second-tier prioritization for each of the three main reasons, to determine where to underground utilities.

Staff has no opposition to this suggestion and is looking for direction. Staff expressed concern though that this study is complicated and the varied actions produce varied consequences. Finding a realistic approach is a challenge. Chair Moylan, summarized that the top priority would to underground the overhead utilities that we can get subsidized by Rule 20 and then the rest be looked at as a study issue.

**Comm. Babcock** questioned staff whether prioritizing would conflict with Rule 20 funds. Staff confirmed that first the City would follow the Rule 20 guidelines and then Public Works would prioritize.

**Comm. Babcock** asked if the City-wide fee or tax would apply throughout the City regardless of whether the specific properties subject to the fee or tax had utilities already placed underground. Rebecca Moon, explained that there are different approaches to the fee or tax and that would be analyzed if that option was chosen.

**Chair Moylan** opened the public hearing.

**Diane Bracken**, a Sunnyvale resident, has a home with overhead utilities in the back of her property. She pointed out that her utilities could stay in the back as she has a park behind her and also commented that the replacement of utilities doesn't have to be done all at once.

**Chair Moylan** closed the public hearing.

**Comm. Hungerford** supported the idea of using Rule 20 funds. He also recommended care in using utility assessment districts because they can be implemented if 2/3 of the property owners agree, which means 1/3 of the owners against the assessment district would still need to pay for their costs.

**Comm. Babcock** made a motion to accept staff's recommendation of alternative 4 and 5 with 5a, b, c, and d. **Comm. Hungerford** seconded.

**Chair Moylan** offered a friendly amendment recommending that the City undertake a study issue to completely underground the remaining part of the utilities that are not covered by the Rule 20A funds if possible while doing other work such as adding fiber optics, repaving and/or road maintenance. Accepted by the maker and the seconder.

**Chair Moylan** offered a friendly amendment requesting the advantages for placing utilities underground be more strongly, clearly and explicitly stated at the beginning of the report. Accepted by the maker and the seconder.

**Chair Moylan** offered a friendly amendment requesting Attachment D, list of arterials, be modified to include definitions for "arterial" and "collector". Accepted by the maker and the seconder.

**Comm. Simons** offered a friendly amendment requesting a separate recommendation of studying Alternative 3 to use all of the potential leverage we could use to lower the cost of undergrounding the utilities. **Comm. Babcock** recommended Alternative 3 be expanded to include 3c, which requests the underground be accomplished at the same time as other work i.e. fiber optic installation, repaving or road maintenance. Accepted by the maker and the seconder.

**Final Motion:**

Comm. Babcock made a motion on Item 2002-0070 to pursue Alternatives 4 and 5a, b, c and d and to ask Council to pursue Alternative 3, rewording it to read: Initiate a study issue to investigate how to underground the remaining utilities that cannot be undergrounded by the Rule 20a funds, including consideration of: a. City-wide fee or tax on development b. Utility Assessment district c. Synergy between other work such as utility installation (i.e. fiber optics to the user) or maintenance that would benefit the whole city at the same time. Commission requested that the rationale for the undergrounding of the utilities be more strongly, clearly and explicitly stated at the beginning of the report and that Attachment D, the list of arterials, be updated and to include the definitions of arterials and collectors. Comm. Hungerford seconded.

Motion carried unanimously, 7-0.

Ms. Caruso stated that this recommendation of staff and the Planning Commission is to be heard by City Council on April 19, 2005.